

CHAPTER 25
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

The department adopts portions of the final report of the Governor's Task Force.

PREAMBLE

Scope. These rules are to provide notice of how the department keeps records and what the procedures are for access by the public. Nothing in these rules affects the access of information by law enforcement agencies, agencies of government or persons authorized by chapter 110A or 692 of the Iowa Code to receive information.

661—25.1(17A,22) Definitions. As used in this chapter:

“Agency” means the “department of public safety.”

661—25.2(17A,22) Statement of policy. (Uniform rule adopted)

661—25.3(17A,22) Requests for access to records.

25.3(1) Location of record. A request for access to a record should be directed to the office where the record is kept. If the location of the record is not known by the requester, the request shall be directed to Administrator, Administrative Services Division, Department of Public Safety, Wallace State Office Building, Des Moines, Iowa 50319. The administrative services division will forward the request to the appropriate person.

25.3(2) Office hours. Open records shall be made available during customary office hours, which are 8 a.m. to 4:30 p.m. daily, excluding Saturdays, Sundays, and legal holidays.

25.3(3) Request for access. (Uniform subrule adopted)

25.3(4) Response to requests. (Uniform subrule adopted)

25.3(5) Security of record. (Uniform subrule adopted)

25.3(6) Copying. (Uniform subrule adopted)

25.3(7) Fees.

a. When charged. (Uniform paragraph adopted)

b. Copying and postage costs. (Uniform paragraph adopted)

c. Search and supervisory fees. Fees may be charged for actual agency expenses in searching for and supervising the examination and copying of requested records. The custodian shall notify the requester of the hourly fees to be charged for searching for records and supervision of records during examination and copying. That hourly fee shall not be in excess of the hourly wage of an agency employee who ordinarily would be appropriate and suitable to perform these search and supervisory functions.

d. Advance deposits.

(1) When the estimated total fee chargeable under this subrule exceeds \$25, the custodian may require a requester to make an advance payment to cover all or a part of the estimated fee.

(2) When a requester has previously failed to pay a fee chargeable under this subrule, the custodian may require payment of the full amount of any fees previously owed and of any estimated fees for the new request prior to processing any new request from the requester.

661—25.4(17A,22) Procedures for access to confidential records. This rule contains the provisions governing public access to confidential records in addition to those specified for all records in rule 25.3(17A,22). These provisions do not apply to law enforcement agencies, agencies of government or persons authorized by Iowa Code chapter 692 or 100A to receive confidential information.

25.4(1) *Proof of identity.* (Uniform subrule adopted)

25.4(2) *Requests.* (Uniform subrule adopted)

25.4(3) Reserved.

25.4(4) *Request denied.* (Uniform subrule adopted)

25.4(5) *Request granted.* (Uniform subrule adopted)

661—25.5(17A,22) Requests for treatment of a record as a confidential record.

25.5(1) Any person who would be substantially or irreparably injured by disclosure of all or a part of a record to members of the public may file a request, as provided in this rule, for its treatment as a confidential record. Failure of a person to request confidential record treatment for all or part of a record does not preclude the agency from treating it as a confidential record.

25.5(2) A request for the treatment of a record as a confidential record shall be in writing and shall be filed with the custodian of that record. The request shall include an enumeration of the specific grounds upon which examination would not be in the public interest; the specific provisions of law that authorize confidential record treatment; and the name, address, and telephone number of the person authorized to respond to any agency action concerning the request. A person filing a request shall, if possible, accompany the request with a copy of the record in question from which those portions for which confidential record treatment has been requested have been deleted. If the original record is being submitted to the agency by the person requesting confidentiality at the same time the request is filed, the person shall indicate conspicuously on the original record that all or portions of it are a confidential record. Requests for treatment of all or portions of a record as a confidential record for a limited time period shall also specify the precise period of time for which confidential record treatment is requested.

25.5(3) *Failure to request.* (Uniform subrule adopted)

25.5(4) *Timing of decision.* (Uniform subrule adopted)

25.5(5) *Request granted or deferred.*

If a request for confidential record treatment is denied, requester may seek review or relief under Iowa Code section 22.8.

661—25.6(17A,22) Procedure by which a subject may have additions, dissents, or objections entered into the record. Except as otherwise provided by law, the subject of a record shall have the right to have a written statement of additions, dissents, or objections entered into the record. The subject shall send the statement to the custodian of the record. The statement must be dated and signed by the subject, and shall include the current address and telephone number of the subject or the subject's representative.

This rule does not apply to criminal investigation, identification or intelligence files.

Access to criminal history data shall be governed by Iowa Code section 692.5.

661—25.7(17A,22) Consent to disclosure by the subject of a confidential record. The subject of a confidential record may consent to agency disclosure to a third party of that portion of the record concerning the subject. The consent must be in writing and must identify the particular record or records that may be disclosed, the particular person, or class of persons, to whom the record may be disclosed, and where applicable, the time period during which the record may be disclosed. The subject and, where applicable, the person to whom the record is to be disclosed may be required to provide proof of identity.

This rule does not apply to criminal investigation, identification or intelligence files.

Access to criminal history data shall be governed by Iowa Code section 692.5.

661—25.8 Reserved.

661—25.9(17A,22) Disclosures without the consent of the subject.

25.9(1) Open records are routinely disclosed without the consent of the subject.

25.9(2) To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. Following are instances where disclosure, if lawful, will generally occur without notice to the subject:

a. For a routine use as defined in rule 25.10(17A,22) or in any notice for a particular record system.

b. To a recipient who has provided the agency with advance written assurance that the record will be used solely as a statistical research or reporting record; provided, that, the record is transferred in a form that does not identify the subject.

c. To another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if an authorized representative of such government agency or instrumentality has submitted a written request to the agency specifying the record desired and the law enforcement activity for which the record is sought.

d. To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last known address of the subject.

e. To the legislative fiscal bureau under Iowa Code section 2.52.

f. Disclosures in the course of employee disciplinary proceedings.

g. In response to a court order or subpoena.

661—25.10(17A,22) Routine use.

25.10(1) Defined. "Routine use" means the disclosure of a record without the consent of the subject or subjects, for a purpose which is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22.

25.10(2) To the extent allowed by law, the following uses are considered routine uses of all agency records:

a. Disclosure to those officers, employees, and agents of the agency who have a need for the record in the performance of their duties. The custodian of the record may upon request of any officer or employee, or on the custodian's own initiative, determine what constitutes legitimate need to use confidential records.

b. Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

c. Disclosure to the department of inspections and appeals for matters in which it is performing services or functions on behalf of the agency.

d. Transfers of information within the agency, to other state agencies, or to local units of government as appropriate to administer the program for which the information is collected.

e. Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the agency is operating a program lawfully.

f. Any disclosure specifically authorized by the statute under which the record was collected or maintained.

661—25.11(17A,22) Records management manual. The department's "Records Management Manual" contains the records management information requested by Iowa Code chapter 22.

The manual is available for examination and copying at the Administrative Services Division, Department of Public Safety, Wallace State Office Building, Des Moines, Iowa 50319, and at district offices.

661—25.12(17A,22) Data processing system. All departmental data processing systems that have common data element can potentially match, collate or compare personally identifiable information.

661—25.13(22) Confidential records. This rule describes the types of departmental information or records that are confidential, in addition to those listed in Iowa Code chapter 22. This rule is not exhaustive.

1. Investigative reports including laboratory reports. (Iowa Code sections 22.7, 622.11, 692.2)
2. Criminal histories. (Iowa Code sections 22.7, 622.11, 692.2)
3. Intelligence reports. (Iowa Code sections 22.7, 622.11, 692.2)
4. Domestic abuse reports. Information which individually identifies perpetrators or victims of domestic abuse. (Iowa Code sections 22.7, 236.9)
5. Radio communication log where it contains criminal history and intelligence information. (Iowa Code sections 22.7, 692.2)
6. Personal information in confidential personnel files including but not limited to evaluations, discipline, social security numbers, medical and psychological evaluations.
7. Complaint files, investigative files and similar information relating to private investigative agency licensees. (Iowa Code sections 22.7, 80A.17)
8. Records received from other agencies which would be confidential if created by the department. (Iowa Code sections 22.7, 692.2, 692.3)

661—25.14(252J) Release of confidential licensing information for child support recovery purposes. Notwithstanding any statutory confidentiality provision, the department may share information with the child support recovery unit of the Iowa department of human services through manual or automated means for the sole purpose of identifying licensees or applicants subject to enforcement of child support orders pursuant to Iowa Code chapter 252J or 598.

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